

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

SOUTH FORK BAND COUNCIL OF WESTERN )	CASE NO. 3:08-cv-616-LRH(RAM)
SHOSHONE OF NEVADA, et al., )	
)	
Plaintiff(s), )	MINUTES OF THE COURT
)	
vs. )	DATED: JANUARY 21, 2009
)	
U.S. DEPARTMENT OF INTERIOR, et al., )	
)	
)	
Defendant(s). )	
_____ )	
)	
BARRICK CORTEZ, INC., )	
)	
Defendant/Intervenor. )	
_____ )	

PRESENT: HONORABLE LARRY R. HICKS, U.S. DISTRICT JUDGE

Deputy Clerk: Rosemarie Miller Reporter: Margaret Griener

Counsel for Plaintiff(s): Roger Flynn and Jeff Parsons

Counsel for Defendant(s): Donna Fitzgerald, Sara Costello and Holly Vance

Counsel for Defendant/Intervenor: Francis Wikstrom, Michael Larsen, Michael McCarthy and Jeff Droubay

PROCEEDINGS: HEARING/PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION  
(12)

9 00 a.m. Court convenes. The morning session of this hearing is held in Courtroom No. 3.

The Court notes that plaintiff has rested its case with regard to the RFRA claim and calls on defendants for presentation of evidence. Mr. Wikstrom notes a correction to the record from proceedings held yesterday.

James Moss, Chief, Western Shoshone Council, called by defendant/intervenor, is sworn, testifies on direct examination by Mr Wikstrom, cross examination by Mr. Flynn and is excused. Exhibit DI-001 is admitted into evidence.

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Donald Hardesty, Ph.D., called by defendant/intervenor, is sworn and testifies on direct examination by Mr. Wikstrom. The following exhibits are admitted into evidence: Exhibit DI-001, DI-002 (illustrative), DI-004, DI-007, DI-008, DI-010, DI-011, DI-013, DI-014, DI-015, DI-016, DI-017, DI-018 (illustrative), DI-020, DI-021, DI-022, DI-023, DI-024, DI-025 (illustrative), DI-028, DI-029, DI-030, DI-027, DI-033, DI-034, DI-036, DI-037, DI-038, DI-040, DI-039, DI-042, DI-044, DI-045, DI-046, DI-047, DI-049, DI-050, DI-051, DI-052, DI-054, DI-056, DI-057, DI-059, DI-061, DI-062, DI-063 and DI-064.

10:28 a.m. The Court stands at recess.

10:45 a.m. Court reconvenes.

Plaintiffs' objection to the relevancy of testimony presented by Dr. Hardesty is overruled.

Donald Hardesty, Ph.D., previously sworn, continues testimony on direct examination by Mr. Wikstrom. The following exhibits are admitted into evidence: DI-065, DI-066, DI-068 (illustrative), DI-069, DI-070, DI-071, DI-072, DI-077, DI-078, DI-080, DI-082, DI-081, DI-083, DI-087 (illustrative) and DI-084. Dr. Hardesty testifies on cross examination by Mr. Flynn and Ms. Costello and is excused.

Diana Buckner, called on behalf of defendant/intervenor, is sworn, testifies on direct examination by Mr. Larsen, cross examination by Mr. Flynn and is excused.

Felix Ike, called on behalf of defendant/intervenor, is sworn, testifies on direct examination by Mr. Larsen, cross examination by Mr. Flynn and is excused.

12:15 p.m. Court stands at recess.

1:48 p.m. Court reconvenes. The afternoon session of this hearing is held in Courtroom No. 5.

Jerry Millett, called on behalf of defendant/intervenor, is sworn, testifies on direct examination by Mr. Larsen, cross examination by Mr. Flynn and is excused.

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On motion by Mr. Larsen, with no objection by plaintiffs or the Government, the testimony of Lisa Ann George is proffered by way of declaration dated November 5, 2008.

Brian Mason, called on behalf of defendant/intervenor, is sworn and testifies on direct examination by Mr. Wikstrom. The following exhibits are admitted into evidence: DI-137, DI-138, DI-130, DI-131, DI-132, DI-133, DI-122, DI-124, DI-126, DI-134, DI-135, DI-140. Mr. Mason testifies on cross examination by Mr. Flynn and is excused.

Lynne Sebastian, Ph.D., called on behalf of defendant/intervenor, is sworn and testifies on direct examination by Mr. Larsen. Exhibit DI-169 is admitted into evidence. Dr. Sebastian testifies on cross examination by Mr. Flynn, redirect examination by Mr. Larsen and is excused.

3:35 p.m. Court stands at recess.

3:54 p.m. Court reconvenes.

Robert Wilcox, called on behalf of defendant/intervenor, is sworn and testifies on direct examination by Mr. Larsen. Exhibit DI-144 is admitted into evidence. Mr. Wilcox testifies on cross examination by Mr. Flynn and is excused.

David Mason, called on behalf of defendant/intervenor, is sworn, testifies on direct examination by Mr. Larsen and cross examination by Mr. Flynn. Mr. Mason responds to questions from the Court, testifies on redirect and re-cross examination and is excused.

Mary Lou McAlexander, called on behalf of defendant/intervenor, is sworn, testifies on direct examination by Mr. McCarthy, cross examination by Mr. Flynn and is excused.

This hearing is continued to January 22, 2009 at 9:00 a.m.

5:20 p.m. Court adjourns.

LANCE S. WILSON, CLERK

By: /s/ Rosemarie Miller  
Deputy Clerk